TESTIMONY OF ROBERT E. PATRICELLI
CHAIRMAN AND CEO, WOMEN'S HEALTH USA, INC.
REGARDING SENATE BILL 351

MARCH 7, 2016

Co-Chairs and members of the Public Health Committee, my name is Robert Patricelli, chairman and CEO of Women's Health USA, Inc., based in Avon, CT. I am here today to testify on Senate Bill 351. I have been an entrepreneur and CEO in Connecticut for over 40 years, and have founded three successful companies employing thousands of people all over the country and all based in Avon. I know what it is like to be an entrepreneur in our state. I have also been a student of health care policy for a long time, having served in Washington under three Presidents and on U.S. Senate staff.

Women's Health USA, or Whusa as we call it, is my current company and is one of the largest management services organizations or MSOs in the state, providing a wide variety of business services in support of independent physician practices. We serve primarily Ob/Gyn physicians in four states, including the 200-doctor group known as Physician's for Women's Health in Connecticut, or PWH, which is itself the largest Ob/Gyn group practice in the country. PWH and Whusa jointly own Women's Health CT, a joint venture MSO we formed in 1997 to help these physicians stay independent, to improve their quality of care, and to survive economically. Notwithstanding these various affiliations, my remarks today are solely representative of Whusa, which is owned by me and the management team.

I congratulate the Committee in confronting head-on the highly

important question of the role and stability of independent physician practices in the context of the consolidation of the health care delivery system in our state and throughout the United States. Consolidation, per se, is not bad—in fact it's necessary if we are to reform our highly fragmented, inefficient and overly expensive health care system. If this state were to erect unreasonable barriers to consolidation or to private investment in health care delivery, you would take a long step in further undermining the competitive standing of our state and its economy.

I support this bill in part, and oppose it in part.

1. Corporate Practice of Medicine ("CPOM"). The bill would in section 3(f) modify Connecticut's long standing prohibition against "corporate practice of medicine", which dates to an Attorney General decision in the 1950s. Close to half the states now permit corporations to employ physicians—provided that employment does not infringe on the physician's clinical judgment—and for several good reasons. First, doctors are struggling and many of them would prefer to be employed rather than independent businessmen and women. But now, in CT, effectively only hospitals can employ doctors in private practice (through medical foundations)—virtually insuring increases in health care prices and costs. Physicians should have a variety of employment options, not just one.

Second, doctors need to affiliate with providers of capital and management skill. They need partners. Why shouldn't we have the best of American management in the health care business—an Apple brand of health care, or IBM, or GM? Or, for that matter, Women's Health Connecticut. If we wanted to employ primary care physicians in support of our Ob/Gyns, to provide broader women's health care, we couldn't do it.

Third, Connecticut desperately needs competitive advantage against competing states, and being a hub of innovation in health care would be an excellent way to get it. Repealing corporate

practice of medicine would move that ball forward.

2. Physician Non-competition Agreements. The bill would also put in place strong new provisions limiting non-competition agreements involving physicians. I must oppose this provision. It is simply not clear to me why physician non-competes should be singled out for special treatment compared to any other profession or business sector. Connecticut has a whole body of law associated with the enforceability of non-competition agreements, and doctors and anyone else in the health care world should not be exempted from that. This would be one more regulatory intrusion into private business arrangements that would mark Connecticut as a place in which you should not do business. As long as doctors have other choices for employment, which would be facilitated through the Bill's abolition of the CPOM doctrine, the General Assembly should let the competitive marketplace and current law determine what non-compete provisions will be acceptable.

3. Certificate of Need and Transfer of Ownership. I must oppose the provisions of the bill that would expand CON authority, in this case to the regulation of transfers of the ownership of group practices. CON. Again, this issue has everything to do with our competitive standing as a state. CON laws have been steadily shrinking or disappearing around the country. But CT has the dubious distinction, last I looked, of having the most expansive an intrusive CON law in the country. Nothing locks in anti-competitive behavior in health care more than CON. To say that a group practice of doctors that wishes to sell itself, let's say to Apple or IBM, has to go through a CON process is to impose on doctors a hurdle that no other class of citizens has to confront. We must make Connecticut a hub of health care innovation, not a place where it is hard for investors, businesses, and physicians to do business.

Thank you for your attention, and I would be pleased to answer any questions.